UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,118	11/19/2003	Kevin Krietemeyer	0813798.00404	9903

44966 7590 03/01/2010

SULLIVAN & WORCESTER LLP
1666 K Street NW
Washington, DC 20006

EXAMINER	
FERNSTROM, KURT	

ART UNIT	PAPER NUMBER
3711	

NOTIFICATION DATE	DELIVERY MODE
03/01/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@sandw.com
mdemattia@sandw.com
tdores@sandw.com

Office Action Summary	Application No.	Applicant(s)	
	10/718,118	KRIETEMEYER, KEVIN	
	Examiner	Art Unit	
	Kurt Fernstrom	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *28 October 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *41-79* is/are pending in the application.

4a) Of the above claim(s) *70-79* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *41-69* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

Newly submitted claims 70-79 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The claims are directed to an apparatus which was not claimed previously.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 70-79 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Applicant's request for reconsideration of this withdrawal has been considered, but not found persuasive. The claims are directed to a newly claimed apparatus classified in a different area and require a different search.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 41-46, 48-58, 62, 63, 65 and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jarvis in view of Novak, and further in view of Nulph (US

6,602,138). Jarvis discloses in Figures 1 and 2 and in column 2, line 24 to column 3, line 18 of the specification a method and device of playing a lottery comprising a gaming slip 12 comprising a substrate having gaming information printed thereon, including a random request region 26 that enables a plurality of computer-generated picks to be requested in conjunction with a lottery via a written mark made with a writing instrument. Column 3, lines 3-17 in particular discusses the use of a computer to generate picks when a random request is received. Jarvis fails to disclose that a plurality of quick picks may be selected for a single game. Novak discloses in Figure 4 and in column 9, lines 51-64 a lottery game whereby a player may enter a plurality of quick picks for the same game. Column 5, lines 27-33 also discloses a plurality of quick picks for the same game. It would have been obvious to one of ordinary skill in the relevant art to modify the device and method of Jarvis by providing a slip comprising a random request region which enables a plurality of computer-generated picks to be requested for a single game for the purpose of allowing the user to easily generate a plurality of picks for a game, thereby increasing the chances of winning. Jarvis also fails to explicitly disclose that a method of processing a gaming slip is performed at a lottery terminal including a scanner. However, it is known in the art to provide a user with a playslip and have the user fill out the playslip and enter it into a terminal for scanning and issuance of a game ticket having requested numbers thereon. Nulph discloses in column 4, line 25-65 one such example. It would have been obvious to one of ordinary skill in the relevant art to modify the device and method of Jarvis by providing a lottery terminal including a scanner which processes a gaming slip for the purpose of automatically processing the

gaming slip and issuing a game ticket. With respect to claims 42, 45, 58 and 69, both Jarvis and Novak disclose future draw lottery games. With respect to claim 43, 46, Jarvis discloses in Figure 3 a ticket which is generated by the method, displaying the randomly generated picks. With respect to claims 44 and 62, Jarvis discloses a plurality of random request regions 26, each region corresponding to one of a plurality of games, such that random picks are generated corresponding to each random request region. With respect to claims 48, 49 and 56, Jarvis discloses that a manual selection region 14 including one or more manually selected numbers is provided which enables a manual pick to be made, the manual picks then being generated on a ticket. With respect to claims 50 and 57, Jarvis discloses that a draw request region 22 is provided which enables picks to be played for a plurality of drawings. With respect to claims 51-53, a machine readable medium as claimed is inherent in the disclosure of Jarvis, in particular that portion which discusses the use of a computer to generate random numbers in response to a random request. With respect to claim 63, Jarvis discloses that the substrate is unperforated. While Jarvis is silent as to the material used for the ticket, Official Notice is taken that paper is an extremely well known type of material to use for gaming slips, and would have been an obvious means to allow a user to make a request with a writing instrument which can then be fed into and processed by a computer. With respect to claim 65, Jarvis discloses that each computer generated pick comprises a plurality of randomly selected numbers.

Claims 47, 66 and 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jarvis in view of Novak and Nulph, and further in view of Alvarez. Jarvis as viewed

in combination with Novak and Nulph discloses all of the limitations of the claims with the exception of the substrate having a plurality of game panels corresponding to different games. Alvarez discloses in Figures 4-7 and in column 5, line 37 to column 6, line 10 of the specification a device and method comprising a substrate 10 having gaming information corresponding to different games thereon. Figures 6 and 7 in particular show gaming information corresponding to different games, where the sections of Figures 6 and 7 are part of the same substrate as shown in Figures 4 and 5. It would have been obvious to one of ordinary skill in the relevant art to modify the device of Jarvis as viewed in combination with Novak and Nulph by providing a plurality of game panels corresponding to different games for the purpose of allowing a user to easily select numbers for different games. While the substrate of Alvarez does not disclose or suggest random request regions, this feature is already suggested by Jarvis as viewed in combination with Novak. With respect to claim 47, the generation of separate tickets is inherent in the method of Alvarez, as the game slips are detachable and can be submitted separately.

Claims 59-61 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jarvis in view of Novak, and further in view of Alexoff. Jarvis as viewed in combination with Novak discloses all of the limitations of the claims with the exception of marking one box to indicate the number of computer-generated picks to be played. Alexoff discloses in Figure 4 a gaming slip with a “Number of Plays” section at the bottom, where the player selected the number of picks to be plays by marking one box. While in the primary embodiment of Alexoff this feature is generally related to the

number of consecutive days on which picks are to be played, Alexoff discloses in column 4, lines 1-16 an alternative embodiment where a player may play multiple picks for the same drawing. It would have been obvious to one of ordinary skill in the relevant art to modify the device of Jarvis as viewed in combination with Novak by providing and area whereby a player may mark a box to select the number of picks to be played for the purpose of providing "instant gratification" to a user, as discussed at column 4, lines 11-16 of Alexoff.

Response to Arguments

Applicant's arguments with respect to claims 42-69 have been considered but are moot in view of the new ground(s) of rejection.

The arguments concerning the claim limitations previously presented are unpersuasive for reasons set forth in prior Office Actions. The combined teachings of the prior art suggest the claimed invention. The arguments concerning the rejections under 35 USC 112 are persuasive; those rejections have been withdrawn.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (571) 272-4422. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Kim can be reached on 571 272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kurt Fernstrom/
Primary Examiner, Art Unit 3711
December 28, 2009